

HUMAN SERVICES

DIVISION OF MENTAL HEALTH SERVICES

Management and Governing Body Standards

Proposed Readoption: N.J.A.C. 10:37D

Authorized By: Jennifer Velez, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:9A-10.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-324

Submit comments by January 1, 2010 to:

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 10:37D, Management and Governing Body Standards, expires on May 15, 2010. The Department of Human Services (the Department) has reviewed these rules and has determined that their continued

implementation would benefit both the public and providers by delineating specific standards to ensure the effective delivery of high-quality mental health services.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

These rules delineate the management and governing body requirements applicable to agencies licensed and/or funded by the Division to provide services pursuant to N.J.S.A. 30:9A-1 et seq., the Community Mental Health Services Act. The purpose of these rules is to assist in ensuring the delivery of high quality services by requiring contract agencies to establish their own internal structures and policies, which will promote effective management and governing body practices.

Since the last readoption of N.J.A.C. 10:37D (in 2004), the Department has monitored the provision of community mental health services throughout the State and has collaborated with mental health professionals in updating and clarifying regulatory language with the goal of improving its regulations. Recently, the Department determined that additional input from the provider, family and consumer communities would further enhance the quality of these rules. To allow sufficient time for continued collaboration, the Department is seeking to propose N.J.A.C. 10:37D for readoption without amendments at this time. After consultation with, and consideration of input

from, the provider, family and consumer communities, the Department will propose substantive amendments to N.J.A.C. 10:37D.

N.J.A.C. 10:37D is comprised of the following subchapters. Subchapter 1, General Provisions, describes the scope and purpose of the rules and defines words and terms used throughout the rules. Subchapter 2 provides management standards, including provisions regarding a table of organization; the development of policies and procedures; accessibility of services to clients; information communication; environmental maintenance; quality assurance participation and support; a management information system; service coordination; financial internal controls; a personnel policies and procedure manual; maintenance of personnel files; policies and procedures regarding staff credentials and employment references; employee orientation; training; supervision and evaluation; clinical staff qualifications; conflict of interest policy; a discrimination policy; affirmative action and equal employment policies and procedures; and client confidentiality, rights and grievance policies. Subchapter 3 provides governing body standards, including provisions regarding the establishment of advisory boards or committees, fiduciary responsibility, by-laws, a conflict of interest and disclosure policy, frequency and documentation of governing board meetings, executive and management functions of the governing board, reports by the provider agency to the governing board and the Department's access to records.

Social Impact

The rules proposed for readoption are expected to positively impact consumers of mental health services by establishing and maintaining standards that will continue to promote the effective delivery of high quality services. Specifically, the Department believes that the various aspects of overall management contained in the rules proposed for readoption must be adequately addressed to ensure high quality service delivery.

Economic Impact

The rules proposed for readoption will have a positive economic impact upon the indigent and limited income consumers of State-funded mental health services by promoting the highest quality services for them at little or no personal expense. Overall, the Department believes the rules proposed for readoption will not have any economic impact in funded agencies, since the agencies are adequately funded to provide the services as required.

Federal Standards Statement

A Federal standards analysis is not required because these rules are not subject to any Federal requirements or standards.

Jobs Impact

The rules proposed for readoption will neither generate nor cause the loss of any jobs.

Agriculture Industry Impact

The rule proposed for readoption would have no impact on agriculture in the State of New Jersey.

Regulatory Flexibility Analysis

Some providers of Division-funded mental health services may be small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14-16 et seq. The rules proposed for readoption set forth a number of reporting, recordkeeping and compliance requirements on such agencies, deemed necessary to ensure the efficient delivery of services, which are completely supported by State funds. The requirements involve management activities, such as developing a table of organization, developing policies and procedures, screening staff, communicating with staff, maintaining records and coordinating services. Additional requirements involve services delivery and include the assurance of accessibility for the clients and the maintenance of a clean and safe environment.

There is no need for such agencies to employ outside professional services to comply with the provisions, nor is there any requirement for them to expend capital costs to comply with the rules. Any costs of compliance incurred by the agencies are covered in the contracts between the agencies and the Division. The reporting, recordkeeping and other compliance requirements imposed upon such agencies must be uniformly applied, regardless of the size of the agency, to ensure that individuals with mental illness receiving these services throughout the State do so in accordance with basic minimum standards of quality and effectiveness. These standards are important because the individuals with mental illness receiving these services typically have been

psychiatrically hospitalized and would be at risk of additional costly and personally disruptive hospitalizations in the absence of quality community services delivered in accordance with these standards.

Smart Growth Impact

It is not anticipated that the rules proposed for readoption will have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption would not have an impact on affordable housing in New Jersey and there is an extreme unlikelihood that the regulation would evoke a change in the average costs associated with housing because the rules establish standards and procedures for management and governing body requirements expected of community mental health agencies funded and/or licensed by the Department.

Smart Growth Development Impact

The rules proposed for readoption would not have an impact on smart growth and there is an extreme unlikelihood that the regulation would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules establish standards and procedures for management and governing body requirements expected of community mental health agencies funded and/or licensed by the Department.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:37D.